

Knobbe Martens Olson & Bear LLP

Intellectual Property Law

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550 West C Street
Suite 1200
San Diego CA 92101
Tel 619-235-8550
Fax 619-235-0176
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APR 22 2005

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Page 1 of 1

Docket No.: ONCOSIS.005A

CUSTOMER NO. 20995

Applicant : Koller, et al.
App. No : 10/698,343
Filed : October 31, 2003
For : METHOD AND APPARATUS FOR CELL
PERMEABILIZATION
Examiner : Fernandez, Susan Emily
Art Unit : 1651

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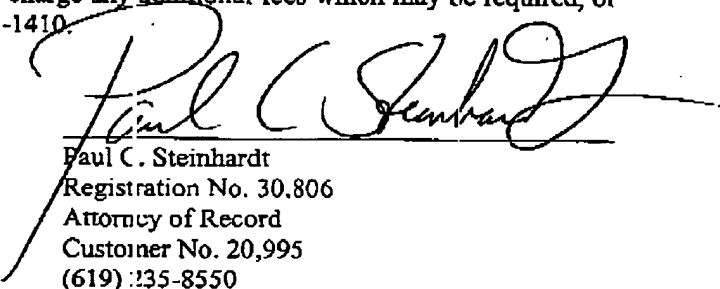
Paul C. Steinhardt, Reg. No. 30,806

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-identified application are:

- (X) RESPONSE TO RESTRICTION REQUIREMENT in two (2) pages.
(X) The Commissioner is hereby authorized to charge any additional fees which may be required, or
credit any overpayment, to Account No. 11-1410.


Paul C. Steinhardt
Registration No. 30,806
Attorney of Record
Customer No. 20,995
(619) 235-8550

1677723 SMA042105

Orange County
949-760-0404San Francisco
415-954-4114Los Angeles
310-551-3450Riverside
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ONCOSIS.005A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Koller et al.
Appl. No. : 10/698,343
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FOR CELL PERMEABILIZATION
Examiner : Fernandez, Susan Emily
Group Art Unit : 1651

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872-9306 on the date shown below:

April 22, 2005

(Date)


Paul C. Steinhardt, Reg. No. 30.806**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated March 24, 2005, Applicants submit the following provisional election and response traversing the restriction requirement.

Applicants' Provisional Election

Applicants provisionally elect with traverse Group I which the Examiner indicated includes Claims 1-34.

Applicants' Traverse

Claims 1-44 are pending in the application. The restriction requirement divides these claims into three different groups. According to the restriction requirement Group I (Claims 1-34) is directed to a method of transiently permeabilizing one or more cells, classified in class 435, subclass 173.5; Group II (Claims 35-43) is drawn to an apparatus for transiently permeabilizing a cell, classified in class 435, subclass 285.2; and Group III (Claim 44) is drawn to a system with a memory comprising a set of instructions, classified in class 711, subclass 100. The restriction requirement states that the inventions of Groups I, II, and III are distinct.

Applicants respectfully traverse the restriction requirement between Groups I and II, and request that the claims of those groups be examined together in the instant application. For a restriction

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requirement to be proper "there must be a serious burden on the examiner if restriction is required." See M.P.E.P. § 803.

Examination of the claims of Groups I and II together would result in a minimal burden on the Office, and in fact, is likely to be less burdensome. Here, Groups I and II are classified in the same class, class 435, which is related to the technology in the field of Molecular Biology and Microbiology. Further, within class 435, Groups I and II fall under only two different (but related) subclasses, i.e. subclasses 173.5 and 285.2. A search of subclass 173.5, which includes subject matter related to the treatment of micro-organisms or enzymes with electrical or wave energy (e.g., magnetism, sonic waves, etc.) where membrane permeability is increased, also would likely include searching and review of art that will be searched in subclass 285.2, which relates to apparatus with means for applying an electric current or charge to a micro-organism (e.g., electrofusion, electroporation, etc.). Therefore, Applicants respectfully submit that the search and examination of the claims of Groups I and II together would result in little or no burden on the Office, and will likely be more efficient for the Office.

In view of above remarks, Applicants respectfully maintain that the restriction between Groups I and II is improper and request the restriction to be withdrawn.

CONCLUSION

Applicants respectfully submit that the claims as presented are in condition for allowance. Therefore, Applicants respectfully request that the Examiner withdraw the restriction requirement between Groups I and II and allow the application. As this response is being timely filed, Applicants believe that there are no additional fees due in connection to the response.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 4/22/05

By: 

Paul C. Steinhardt
Registration No. 30,806
Attorney of Record
Customer No. 20,995
(619) 235-8550

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